

ASSEMBLY BILL

No. 1303

Introduced by Assembly Member Daucher

February 22, 2005

An act to amend Sections 41329.52, 41329.55, 41329.56, and 41329.57 of the Education Code, and to add Section 63049.68 to the Government Code, relating to school finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as introduced, Daucher. School finance: emergency apportionments and lease financing.

Existing law authorizes a school district to receive a 2-part financing designed to provide an advance of apportionments owed to the school district from the State School Fund and requires the initial emergency apportionment to be an interim loan from the General Fund to the school district. Existing law requires the school district to enter into a lease financing with the California Infrastructure and Economic Development Bank (the bank) for the purpose of financing the emergency apportionment and requires the term of the lease not to exceed 20 years.

This bill would require the term of the lease to be extended for a period not to exceed 5 years if at the end of the lease term any rent payable is not fully paid or if the rent payable has been abated.

Existing law requires notification to the Controller of the lease financing, along with a schedule of rent payments to become due to the bank from the school district and identifying the bond trustee. Existing law requires the Controller to make the apportionment to the bond trustee of those amounts on the dates shown on the schedule. Existing law provides that the bank may further authorize that the

apportionments be used to pay or reimburse the provider of any credit enhancement of bonds issued by the bank.

This bill would also authorize those apportionments to be used to pay or reimburse the provider for other ongoing or periodic ancillary costs of the bond financing.

Existing law requires the bank to issue separate bonds for the West Contra Costa Unified School District and the Oakland Unified School District for lease financing and requires those school districts to use the proceeds to repay the existing apportionments. Existing law requires the terms of those leases not to exceed 20 years.

This bill would require the terms of the leases to be extended for a period not to exceed 5 years if at the end of the lease terms any rent payable is not fully paid or if the rent payable has been abated.

Existing law requires the Controller to annually transfer from Section A of the State School Fund the amount of funds necessary to pay certain warrants so that the effective cost of the lease financing provided to specified school districts is equal to the cost of the emergency loan made to each district at a certain annual rate.

This bill would instead require the Controller to make that transfer periodically rather than annually, would provide that the effective cost of the lease financing is equal to the cost of the original emergency loan, and would specify the applicable interest rate for each district, as provided.

Existing law requires the executive director of the bank to annually notify the Controller of certain amounts relating to the lease financing and requires the Controller to annually issue a warrant to certain school districts in that amount.

This bill would instead require both the notification and the issuance of the warrant to be done periodically rather than annually.

Existing law provides that a financing of emergency apportionments upon the request of a school district, as provided, is deemed to be in the public interest and eligible for financing by the bank. Existing law authorizes the bank to issue revenue bonds and provide the proceeds to a school district pursuant to a lease agreement, as provided.

This bill would declare that the state pledges that it will not alter a certain directive and will not amend or repeal certain provisions of existing law in any manner that would materially impair the security or other interests of the bondholders.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41329.52 of the Education Code is
2 amended to read:

3 41329.52. (a) A school district may receive a ~~two-part~~
4 *two-part* financing designed to provide an advance of
5 apportionments owed to the district from the State School Fund.

6 (b) The initial emergency apportionment shall be an interim
7 loan from the General Fund to the school district. General Fund
8 money shall not be advanced to a school district until that district
9 agrees to obtain a lease financing as described in subdivision (c)

10 and the bank adopts a reimbursement resolution governing the
11 lease financing. The interim loan shall be repaid in full, with
12 interest, from the proceeds of the lease financing pursuant to
13 subdivision (c) within one year of the date the district receives
14 the initial emergency apportionment disbursement. The interest

15 rate on the interim loan shall be the rate earned by moneys in the
16 Pooled Money Investment Account as of the date of the initial
17 disbursement of emergency apportionments to the school district.

18 (c) The school district shall enter into a lease financing with
19 the bank for the purpose of financing the emergency
20 apportionment, including a repayment to the General Fund of the
21 amount advanced pursuant to subdivision (b). In addition to the
22 emergency apportionment, the lease financing may include funds
23 necessary for reserves, capitalized interest, credit enhancements
24 and costs of issuance. The bank shall issue bonds for that purpose
25 pursuant to the powers granted pursuant to the Bergeson-Peace
26 Infrastructure and Economic Development Bank Act as set forth
27 in Division 1 (commencing with Section 63000) of Part 6.7 of
28 the Government Code. The term of the lease shall not exceed 20
29 years, *except that if at the end of the lease term any rent payable*
30 *is not fully paid, or if the rent payable has been abated, the term*
31 *of the lease shall be extended for a period not to exceed five*
32 *years.*

33 SEC. 2. Section 41329.55 of the Education Code is amended
34 to read:

1 41329.55. (a) Simultaneous with the execution of the lease
2 financing authorized pursuant to Section 41329.52, the ~~school~~
3 ~~district bank~~ shall provide to the Controller a notification of its
4 lease financing. The notice shall include a schedule of rent
5 payments to become due to the bank from the school district and
6 identifying the bond trustee. The Controller shall make the
7 apportionment to the bond trustee of those amounts on the dates
8 shown on the schedule. The bank may further authorize that the
9 apportionments be used to pay or reimburse the provider of any
10 credit enhancement of bonds *and other ongoing or periodic*
11 *ancillary costs of the bond financing* issued by the bank in
12 connection with this article. The Controller shall make the
13 apportionment only from moneys in the State School Fund
14 designated for apportionment to the district ~~pursuant to Section~~
15 ~~42238~~.

16 (b) The amount apportioned for a school district pursuant to
17 this section is an allocation to the district for purposes of
18 subdivision (b) of Section 8 of Article XVI of the California
19 Constitution. For purposes of computing revenue limits pursuant
20 to Section 42238 for any school district, the revenue limit for any
21 fiscal year in which funds are apportioned for the district
22 pursuant to this section shall include any amounts apportioned by
23 the Controller pursuant to subdivision (a) as well as Section
24 ~~41329.54~~ 41329.57.

25 (c) No party, including the school district or any of its
26 creditors, shall have any claim to the money apportioned or to be
27 apportioned to the bond trustee by the Controller pursuant to this
28 section.

29 SEC. 3. Section 41329.56 of the Education Code is amended
30 to read:

31 41329.56. (a) Chapter 57 of the Statutes of 1993 consolidated
32 several previous emergency apportionments and a loan to the
33 West Contra Costa Unified School District and specified the
34 repayment terms of that apportionment. Chapter 14 of the
35 Statutes of 2003 authorized an emergency apportionment to the
36 Oakland Unified School District and specified the repayment
37 terms of that apportionment. Collectively these are referred to in
38 this section as “existing apportionments.”

39 (b) ~~Promptly following the effective date of this article~~ *after*
40 *August 23, 2004*, the bank shall issue separate bonds for the West

Contra Costa Unified School District and the Oakland Unified School District for lease financing pursuant to Section 41329.52. The school districts shall use the proceeds to repay the existing apportionments. The terms of the leases shall not exceed 20 years, *except that if at the end of the lease term any rent payable is not fully paid, or if the rent payable has been abated, the term of the lease shall be extended for a period not to exceed five years.*

SEC. 4. Section 41329.57 of the Education Code is amended to read:

41329.57. (a) (1) The Controller shall ~~annually~~ *periodically* transfer from Section A of the State School Fund the amount of funds necessary to pay the warrants issued pursuant to paragraph (2) so that the effective cost of the lease financing provided to the Oakland Unified School District, the Vallejo City Unified School District, and the West Contra Costa Unified School District pursuant to this article shall be equal to the cost of the *original General Fund* emergency loan made to each district ~~at the annual rate paid on moneys in the Pooled Money Investment Account for the year immediately preceding the date each loan was funded.~~

(A) *For the purposes of determining the cost of the original emergency loan for the West Contra Costa Unified School District, the original interest rate is the rate established pursuant to Section 41474 of 1.532 percent.*

(B) *For the purposes of determining the cost of the original emergency loan for the Oakland Unified School District, the original interest rate is 1.778 percent. This rate shall also apply to any disbursements of the loan pursuant to Chapter 14 of the Statutes of 2003 that are subsequent to August 23, 2004.*

(C) *For the purposes of determining the cost of the original emergency loan for the Vallejo City Unified School District, the original interest rate is 1.5 percent. This rate shall also apply to any disbursements of the loan pursuant to Chapter 53 of the Statutes of 2004 that are subsequent to August 23, 2004.*

(2) The executive director *or chair* of the bank shall ~~annually~~ *periodically* notify the Controller of the actual amount of the difference between the cost of the lease financing compared to the cost of the original emergency loan for each district for each year and the Controller shall ~~annually~~ *periodically* issue a warrant to each school district in that amount. Payments to a

1 district shall occur only during the term of the loan for that
2 district and shall be made no sooner than the corresponding
3 payments are made to bondholders under the lease financing for
4 that district.

5 (3) For purposes of making the computations required by
6 Section 8 of Article XVI of the California Constitution, the
7 warrants issued pursuant to paragraph (2) are “General Fund
8 revenues appropriated to school districts,” as defined in
9 subdivision (c) of Section 41202 for the fiscal years in which the
10 warrants are issued and included within the “total allocations to
11 school districts and community college districts from General
12 Fund proceeds of taxes appropriated pursuant to Article XIII B”
13 as defined in subdivision (e) of Section 41202, for the fiscal
14 years in which the warrants are issued.

15 (b) It is the intent of the Legislature that the financing cost
16 subsidies funded in this section not be deemed precedent nor in
17 conflict with Section 41329.53, as these districts requested loans
18 prior to the enactment of this article.

19 SEC. 5. Section 63049.68 is added to the Government Code,
20 to read:

21 63049.68. The State of California pledges that (a) the state
22 will not alter the directive to the Controller to make
23 apportionments to the bond trustee of moneys in the State School
24 Fund from that set forth in Section 41329.55 of the Education
25 Code, and (b) the state will not amend or repeal subdivision (f) of
26 Section 63049.67, in each case in any manner that would
27 materially impair the security or other interests of holders of any
28 bonds issued pursuant to this article. The bank is authorized to
29 include this pledge in the bonds, or other documents entered into
30 in connection with the bonds, as a covenant for the benefit of the
31 bondholders.

32 SEC. 6. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety
34 within the meaning of Article IV of the Constitution and shall go
35 into immediate effect. The facts constituting the necessity are:

36 In order to address the fiscal emergencies facing school
37 districts that have received or that are requesting an emergency
38 apportionment from the state, it is necessary that this act take
39 effect immediately.

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